

## **Fiscal Impact Analysis of Permanent Rule Adoption without Substantial Economic Impact**

### **Agency Proposing Rule Change**

North Carolina Department of Health and Human Services (Secretary)/ Division of Health Service Regulation (Director)

### **Contact Persons**

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### **Impact Summary**

Federal Government:	Yes (administered through the state)
State Government:	Yes
Local Government:	No
Small Business:	Yes
Private Citizen:	Yes
Substantial Impact:	No

### **Titles of Rule Changes and Statutory Citations**

**10A NCAC 13 .0301**

*\*See proposed text of this rule in Appendix 1*

### **Authorizing Statutes**

G.S. 131E-255

42 CFR Part 483

42 U.S.C. § 1395i-3(e)

42 U.S.C. § 1396r(e)

### **Introduction and Background**

Regulation by the State of North Carolina of Nurse Aide I Training and the Nurse Aide I Registry is subject to the provisions of 42 U.S.C. §1395i-3(e), 42 U.S.C. §1396r(e), and 42 CFR Part 483. The purpose of the new rule is to comply with the federal regulations to ensure the provision of safe care for the citizens of North Carolina and to ensure consistent training for all Nurse Aide I's listed in the N.C. Nurse Aide I Registry. See Appendix 2 for Certificate of Federal Requirement.

Nurse Aide I Training and the Nurse Aide I Registry was established in 1989 when the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) was enacted. Before passage of the OBRA 87, only a few States required training of nurse aides. Passage of OBRA 87 required each State to establish State-approved nurse aide training programs and to establish minimum requirements for nurse aide competency.

Oversight and enforcement of the nurse aide training and registry regulatory requirements are left to the States. Pursuant to 42CFR483.151 through 42CFR483.154, DHSR reviews and approves or disapproves nurse aide training and competency evaluation programs and nurse aide competency evaluation programs upon request. Pursuant to 42CFR483.156, DHSR has established and maintains a Nurse Aide I Registry.

According to the UNC Institute on Aging (<http://www.aging.unc.edu/topics-of-interests/healthy-aging/>) approximately two-thirds of older citizens have multiple chronic disease. With nurse aides being a primary caregiver of unlicensed nursing care in nursing homes (DHHS Office of Inspector General – *Nurse Aide Training*, November 2002), nurse aides play an increasingly important role in the delivery of quality health care. The Health Care Personnel Education and Credentialing Section (HCPEC) revised and implemented a statewide nurse aide

training curriculum to better reflect current standards of care. The curriculum was developed, reviewed, and piloted with the support of various stakeholder groups, including but not limited to, the NC Board of Nursing, the NC Community College System, the NC Department of Public Instruction, and representatives of statewide associations, advocacy groups, and nursing home personnel.

## **Rules Summary and Anticipated Fiscal Impact**

Prior to 2006, Nurse Aide I Training and Competency testing was completed within the community colleges, colleges and universities, health care facilities, licensed proprietary schools, and high schools. In July of 2006, in concert with the federal requirements, the Department implemented a national standardized competency exam for the testing of all nurse aides. Individuals who pass the exam are listed on the NC Nurse Aide I Registry.

Any school or provider may apply to teach a state-approved Nurse Aide I Training program. The majority of health care providers must verify this listing prior to hiring an individual to fill a nurse aide position. North Carolina currently does not require state approved Nurse Aide I training as a prerequisite to taking the Nurse Aide I Competency Exam. As a result, over the past several years, potential Nurse Aide I Competency candidates have been migrating to non-state approved, non-licensed, two-three day courses or videos that are marketed as exam prep courses. As this practice has grown, the Health Care Personnel Education and Credentialing (HCPEC) section at the Division of Health Service Regulation, has received an increasing number of complaints and negative stakeholder feedback regarding these Nurse Aide I training prep courses in North Carolina. Complaints about the training in non-approved, unlicensed schools are frequent and based on current exam data, students in these programs have a higher failure rate than those who pass state-approved training. Also, many providers, as well as many nursing schools, do not recognize training unless it is state-approved training. Based on phone conversations with upset students from these unapproved programs, the students enroll believing they will receive proper training which will prepare them to pass the competency exam and to be ready to work as a Nurse Aide I. Additionally, information from inbound customer phone calls to the HCPEC offices indicate that the lay public, as well as the health care public, expect that all Nurse Aide I training be state-approved and required prior to nurse aide testing.

To determine what the training standard is in other states, a recent state by state review by HCPEC (June 2015) of 52 states and US territories showed that 46 (88%) require approved training in order to be eligible to take that state's Nurse Aide I Competency exam.

The purpose of this new rule is to ensure nurse aide training programs offered in North Carolina meet minimum federal requirements pertaining to resident rights, basic nursing, personal care, restorative, mental health, and social service skills, as well as how to care for cognitively impaired residents. As a result of this new rule, successful candidates that are listed on the Nurse Aide I Registry will be better trained which will result in the public receiving safer/more competent hands-on, direct patient/resident/client care.

## **Impact Analysis**

### **State**

#### Division of Health Services Regulation (DHSR)

There is no application fee requirement to approve a program, so there would not be any additional revenue to DHSR as a result of the change.

There would be a cost, however, related to the additional staff time need to process program approval applications. The Health Care Personnel Education and Credentialing Section (HCPEC) currently has 4 full-time Registered Nurses (RNs) who perform application reviews/approvals of Nurse Aide programs. There are currently 598 state-approved programs in NC. Based on the average number of new program applications each year, it is anticipated that there would be an average increase of 10 additional initial applications submitted for review during the first year only. It has been our experience that few, if any, of these unlicensed

schools will ever seek DHSR program approval and state licensure by the Office of Proprietary Schools. It is important to note that once an unapproved school does meet state and federal guidelines for approval by DHSR, it still must meet NC Proprietary School licensure requirements to offer Nurse Aide I training. DHSR does not approve programs in schools which may be operating without a license. Since DHSR does not have authority to determine which schools are or are not required to obtain a license, proprietary schools wishing to obtain approval to teach Nurse Aide I must submit a letter from the Office of Proprietary Schools verifying licensure or exemption from licensure status. Article 8, §115D of the North Carolina General Statutes authorizes the State Board of Community Colleges to license and regulate proprietary schools, upon the recommendation of the State Board of Proprietary Schools. Prospective schools must meet the requirements for licensure contained in Article 8, and once licensed, they are required to maintain compliance with the provisions of Article 8 and Title 2 of the State Board of Community Colleges Code. § 115D – 96 states that any person, or each member of any association of persons or each officer of any corporation who opens and conducts a proprietary school without first having obtained the license herein required, and without first having executed the bond, paid the assessments into the Student Protection Fund, or both, as required by law, shall be guilty of a Class 3 misdemeanor, and each day the school continues to be open and operated shall constitute a separate offense. The unlicensed schools teach a variety of courses in addition to Nurse Aide I, and DHSR does not expect that they would abandon those offerings to seek state licensure. The Office of Proprietary Schools concur with DHSR regarding this assumption. Therefore, the agency does not anticipate growth in the number of programs that would seek DHSR approval after the first year.

Based on the average time it currently takes the staff to complete application reviews, it is estimated that it would take an additional total of 110 RN hours annually at \$37.64 per hour (based on compensation and current 2015 fringe benefit rates for a Nurse Consultant Contributing, see Table 1) to review and provide a written response to schools submitting these initial applications.<sup>1</sup>

**Table 1. Value of State Employee Time**

<b>HCPEC Position</b>	<b>Salary</b>	<b>Retirement</b>	<b>Social Security</b>	<b>Health Insurance</b>	<b>Leave Time Value</b>	<b>Total Compensation</b>	<b>Working Hours/ Year</b>	<b>Hourly Compensation</b>
Nurse Consultant-C (RN)	\$53,199	\$7,815	4,070	\$5,435	\$7,778	\$78,297	2,080	\$37.64
Admin II	\$41,941	\$6,161	\$3,208	\$5,435	\$6,132	\$62,877	2,080	\$30.23
FSC Manager	\$69,629	\$10,229	\$5,327	\$5,435	\$10,180	\$100,800	2,080	\$48.46

Of the additional 10 initial applications to be submitted, it is estimated that 3 would meet acceptance criteria, i.e. would receive approval conditional on obtaining licensure from the North Carolina Community College Office of Proprietary Schools. These 3 programs would require the Section to spend an average of an additional 60 RN hours in addition to the 110 hours as mentioned above, for a total cost of \$6,398 for 170 total hours.

It is also estimated that there will be an additional 20 hours needed to complete the clerical support at a cost of more than \$600 and additional supervisory support of 24 hours at a cost of less than \$1,200. Clerical support includes managing statistics, providing information to the public via phone, and receiving/directing public complaints.

The total cost per year for the DHSR HCPEC staff will be close to \$8,200 (see Table 2) and will easily be absorbed into the current resources. Given small wage growth for state employees in the last few years, this

<sup>1</sup> North Carolina Office of State Human Resources. Employee Total Compensation Calculator.  
<http://www.oshr.nc.gov/Reward/benefits/Compensation%20Calculator.htm>

estimate is assumed to stay constant for the next few years. While there would be an opportunity cost related to the additional time state employees would have to dedicate to this requirement, there would be little to no budgetary impact to DHSR.

**Table 2. HCPEC Estimated Cost**

<b>HCPEC Staff FTE</b>	<b>Additional Hours per Year</b>	<b>Cost per Hour</b>	<b>Total Cost per Year</b>
RN	170	\$37.64	\$6,398
Admin II	20	\$30.23	\$605
Manager	24	\$48.46	\$1,163
<b>Total</b>	<b>214</b>	-----	<b>\$8,166</b>

#### NC Community Colleges System

The NC Nurse Aide I Competency Exam is administered per no cost state contract with a testing vendor, Pearson VUE, Inc. Approximately 18,500 first-time test takers took the Competency Exam in 2014 (*2014 NNAAP® Technical Report* and Pearson VUE's *Cumulative Report* to NCDHSR), of which approximately 2,100 registered as "other trained." Candidates who use "other trained" as their eligibility route are self-reporting as such and there is no method of tracking or verifying that route.

Anecdotally, the test candidates who use this route to register for the exam represent various types of candidates. For example, some individuals may have received training in another state, may have received similar training in another health care education program, or may register for the test prior to actually completing their approved training program. Additionally, the number of test takers have remained constant for the past several years and so we do not anticipate growth over the next five years. Therefore, since 2014 is a representative year for the number of test takers who received other training than state-approved, we use that number of "other trained" as an estimate for how many additional students might seek training at licensed schools, NC college or universities, local community colleges, and/or approved health care provider as a result of this rule. In 2014 approximately 2,100 additional students registered themselves as "other trained." Because we are unable to track why candidates register as "other trained," we cannot determine how many of these 2,100 students actually attended an unlicensed, unapproved school; however, we do believe that at least 70% of them did and thus assume, given fairly stable registration numbers, that 1,470 individuals would be affected and enroll in approved courses if this rule is adopted.

The cost estimate for the community colleges is provided by the North Carolina Community College System, Office of Continuing Education. Currently, the majority of state-approved trained candidates receive their training at community colleges and licensed proprietary schools. Using current trends of NNAAP® exam registration data, which have been fairly stable over the last few years, candidates registering as having completed a state-approved program in a community college represent approximately 60%. Therefore, the analysis estimates that close to 880 of these 1,470 additional students would enroll in training at their local community college.

In a typical Nurse Aide I Training class taught in community colleges, there are 20 students and one instructor for 160 hours and an additional instructor for approximately 80 of those hours (for skills lab and clinical rotations). To train an additional 880 students, it is estimated that an additional 44 classes of Nurse Aide I training will be required as a result of this rule. Given the hourly compensation of a training specialist \$26.76 (see Table 3),<sup>2</sup> each additional Nurse Aide I training class will cost the community college about \$6,400 in compensation costs for the instructor. The cost to the community college system for the instructor time for the additional 44 class would be about \$282,600. According to the System Office, the additional staff needed would be adjunct faculty, who do not universally receive annual raises in their hourly wage rate. It should be noted that this is an upper bound estimate. Many community colleges would have openings in currently

<sup>2</sup> It is important to note that the majority of Nurse Aide I instructors are employed part-time, without benefits other than social security.

offered training courses or may choose to expand the number of students per course. This would allow the community college system to absorb a portion of the influx of new students without hiring additional staff or offering additional courses.

**Table 3. Estimated Instructor Costs for NC Community College System**

Position	Salary	Social Security	Total Compensation	Hourly Rate	Additional Hours/ Class	Additional Classes	Total Additional Instructor Cost
Training Specialist	\$51,714	\$3,956	\$55,670	\$26.76	240	44	\$282,600

Community colleges would also incur an additional cost for consumables (materials, etc.). Based on information provided by the NC Community College System, it is estimated that the cost per student for consumables is \$25 each, for a total of \$22,000.

The community colleges would also incur an additional cost in terms of the opportunity cost of the training facilities and other existing resources, which could be used for other purposes but would now be diverted toward Nurse Aide I training. However, this cost is difficult to estimate and is not included in this analysis.

The North Carolina Community College Office of Proprietary Schools receives and reviews licensure applications for schools classified as proprietary. Through correspondence to HCPEC, they have determined that there would be little to no budgetary impact on their office as a result of this rule, although there would be an opportunity cost of the staff time to review the additional applications. The Office has not provided the agency with an estimate of that cost, which is therefore not included in the total cost of the rule to the Community College System.

Based on the above, the quantifiable additional total cost the System is expected to incur annually is about \$304,600 to teach an additional 880 students. The primary cost impacts is with faculty salaries, which is expected to remain at or near the current figures for the next 5 years. As noted above, this cost may likely be smaller, depending on the number of additional classes the community colleges actually add. This amount would be offset by student tuition of \$180.<sup>3</sup> It is unclear whether or not a tuition increase or decrease in Continuing Education Division of the NC Community College System would be implemented in the next five years, so a change in tuition fee is not included in this analysis.

**Table 4. Total Estimated Costs for NC Community College System**

Item	Estimated Cost
Training Specialists	\$282,600
Consumables	\$22,000
Opportunity Cost	Unquantified
<b>Subtotal</b>	<b>\$304,600</b>
Additional Student Fees (offsetting the subtotal cost)	\$158,400
<b>Net Total</b>	<b>\$146,200</b>

## Federal

The total DHSR costs, as described in the DHSR section above is close to \$8,200. Funding for this staff is at 75% federal and 25% state. Therefore, the federal government's share of the estimated opportunity cost above

<sup>3</sup> Based on current legislated fee schedules for Continuing Education, any occupational course in excess of 50 instructional hours has a registration fee of \$180.

is close to \$6,200 (and the state portion is \$2,000). Because the work would be easily absorbed into the current resources, there would be little to no budgetary impact associated with the adoption of this rule.

## **Local Government**

No impact associated with the adoption of this rule.

## **Small Business**

### Licensed Proprietary Schools

As with the NC Community College System, licensed proprietary schools that offer state-approved Nurse Aide I training programs would see an increase in enrollment. We are unable to estimate the increase in number of students who would enroll in specific program types, but based on current testing data trends, as explained in the paragraphs above, it is estimated that 40% (about 590) of the additional students would seek enrollment in licensed proprietary schools. Assuming the cost of training by licensed schools would equal the cost of training in community colleges, i.e. about \$350<sup>4</sup> per student, the total cost of these additional students would be about \$206,500. This cost would more than likely be offset by the fees these schools would charge the students (assuming they would not be operating at a loss). The students would be paying the licensed schools for training rather than the unlicensed schools. Proprietary schools typically charge the cost of training to the student, therefore the estimated \$350 per student, would in fact, be paid by such students. Based on this information, there would be no added costs to the proprietary schools that would not be offset by tuition; and they may even incur additional profit as a result (however, there is not available data to estimate this benefit).

### Unlicensed Proprietary Schools

As a result of this rule, unlicensed, unapproved schools would choose between seeking DHSR approval and Proprietary School licensure, (both of which are required), or continuing to operate by teaching their other courses instead of Nurse Aide I. As mentioned in previous paragraphs, it is not expected that any of these programs would obtain Proprietary School licensure, even if they are DHSR-approved; therefore, no costs of obtaining licensure status is included in the summary of estimated impacts from the proposed rule change. As previously mentioned, there are no associated costs to the unlicensed schools if they choose to seek HCPEC approval.

Though it's highly unlikely the unlicensed schools would proceed with state licensure through the Office of Proprietary Schools even if they meet the DHSR approval criteria, below is a discussion of the estimated costs they would incur if they did. If the 3 HCPEC approved schools would seek/obtain licensure, they would incur a total cost of \$20,400 the first year. Should they remain in business for an additional 4 years, and assuming licensure related costs would hold constant, they would incur costs of about \$13,000 for each of those years. The total estimated costs associated for obtaining a state license for 3 schools for the following 5 years are shown in Table 5 below:

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<sup>4</sup> Again, it should be noted that the cost of \$350 per student is an upper bound estimate that includes the cost of hiring additional instructors and offering additional courses. The estimated number of new instructors and courses required is likely overestimated because the schools would be able to absorb a portion of the new students through existing openings in courses or through increasing class sizes.

**Table 5. Potential Licensure Costs**

<b>Fee Type</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Application/Renewal Fee	\$3,000	\$1,500	\$1,500	\$1,500	\$1,500
Per Program Charge	\$50	\$50	\$50	\$50	\$50
Student Protection Fund Assessment*	\$1,250	\$300	\$300	\$300	\$300
Insurance Bond Payment**	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500
<b>Total Annual Cost per School</b>	<b>\$6,800</b>	<b>\$4,350</b>	<b>\$4,350</b>	<b>\$4,350</b>	<b>\$4,350</b>
<b>Total Annual Cost for 3 Schools</b>	<b>\$20,400</b>	<b>\$13,050</b>	<b>\$13,050</b>	<b>\$13,050</b>	<b>\$13,050</b>

\*The Student Protection Fund Assessment for license renewals is based on the school's income during the previous year (i.e., a school making \$100,000 would pay \$300 at the time of renewal). See North Carolina General Statute, N.C.G.S. 115D-95.1 Student Protection Fund for additional details:  
[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_115D/GS\\_115D-95.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_115D/GS_115D-95.1.html).

\*\*The minimum amount of coverage under the statute is \$25,000 (see N.C.G.S. 115D-95 Bonds required). Based on the experience of the Office of Proprietary Schools staff, insurance providers typically require a 10% payment for providing that amount of coverage.

Regardless of whether or not programs seek state licensure with the Office of Proprietary Schools, they would lose their nurse aide students and associated tuition, at least for a year. If they do not seek licensure, they will not be able to offer these programs, and will not receive tuition for them. If they do seek licensure, they will still lose revenue while waiting for licensure, as students move to licensed programs that are operating. Tuition amounts vary among programs, but according to our own random sampling of unlicensed school websites and complaint phone calls from students, most are estimated to be at least \$300. Therefore, we estimate that if these programs would see about 1,470 fewer students per year, their total revenue loss could equal \$441,000.

While they would be losing revenue from student fees, the unlicensed programs would also incur savings from no longer running the programs, or running them at a lower capacity. We cannot determine the operational costs of these unapproved training programs; however, the information we do have indicates that the classes last only a few hours to a few days, require little to no lab or clinical instruction, and many times are not taught by professional registered nurses. This would clearly indicate that their costs of these training courses are significantly less than the \$350 estimate for community colleges and licensed proprietary school. Assuming their costs are half that of the licensed, approved schools, their total estimated savings would be \$257,300. So, based on the assumptions stated below, the analysis shows a possible net loss to these unapproved programs of about \$183,700.

Assuming the 3 programs that would seek and obtain conditional approval from HCPEC would also seek licensure from the Office of Proprietary Schools but fail to obtain the licensure, their net cost in the first year would include an additional \$12,900 in nonrefundable licensure application costs (in the form of application costs, per program charge, and the student protection fund – see first 3 line items for Year 1 in Table 5 above). Therefore the total net loss to unlicensed schools would be approximately \$197,000 and their annual loss after the first year would be close to \$184,000 as estimated above. Again, it is unlikely that these programs could obtain licensure.

## Private Citizens

As a result of the proposed change, individuals would be able to choose from a variety of school types in which to enroll for approved Nurse Aide I training (i.e. licensed schools, NC colleges or universities, local community colleges, and/or approved health care provider). The analysis assumes that a number of the “other trained” test candidates would now enroll in a state-approved program and receive education and training that complies with federal statutes and is reflective of current industry trends and nursing standards.

As mentioned above, tuition costs for programs that are unlicensed generally cost \$300 and above. However, the licensed and approved programs may charge different fees:

- Training offered through health care facilities that accept Medicare and Medicaid and through public high schools is free to individuals;
- Individuals who have previously completed state-approved training, have trained in other states, have completed medical corpsman training in any military branch, or have completed nursing training would not be required to enroll/complete state-approved training;
- Community colleges are likely to charge tuition of \$180; and
- The cost estimate for private programs is about \$350, as discussed above.

Given this information, the agency estimates that students would pay roughly the same monies for credible, state-approved Nurse Aide I education if attending a licensed and approved proprietary school, and even less if attending a community college. Since the \$300 cost for an unapproved program is fairly uncertain, the agency does not expect that the requirement to enroll in an approved program would create a significant impact to private citizens for enrollment costs. Assuming the \$300 cost is correct, on average, the 880 students who would be enrolling in community colleges would incur a cost saving of \$120, for a total of \$105,600 in savings.

Additionally, as a result of completing state-approved training and based on current data provided by our testing vendor, Pearson VUE, Inc., the passing rate for the Nurse Aide I Competency exam on the first try could increase by 19 percentage points,<sup>5</sup> resulting in test takers not having to pay for additional testing. Individuals who do not pass the exam must pay for each additional attempt at the exam. Additionally, after failing three times, training or re-training is currently required. Out of 1,470 students who we estimate obtained “other training” at unlicensed /unapproved schools and took the test in 2014, about 47%, or 690, had to pay for re-testing. The percentage of students in 2014 who obtained state-approved training and had to retake the test was only about 28%. Assuming these percentages would hold and the number of students affected by the rule change would be about 1,470, about 280 (19%) fewer students would have to pay to re-testing under the proposed rule. This represents a cost savings of close to \$22,000, given a cost of \$101 to retake both the written and skills portions of the test and \$77 for just the skills portion (see Table 5 below). The number of students who actually re-trained/retook the course is not tracked, so there could be additional savings that are not estimated in this analysis.

It is important to note that while 19% of the test takers could see a saving of \$22,000 for fewer needing to re-test, the testing vendor (Pearson VUE, Inc.) could see a tantamount loss; however, it is unclear what the actual impact might be. There is no budgetary impact to the state for the administration of this exam. So, the agency expects the vendor to absorb any cost as the state has a fixed cost contract with the vendor, so the loss would not be passed along to the state.

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<sup>5</sup> Passing rates for test takers completing a state-approved program at a community college or licensed proprietary school averages 72% versus 53% for “other trained.”



**Table 5. Estimated Savings to Individuals**

Test Type	Test Price	Retests WITHOUT Rule		Retests WITH Rule		Impact (Savings)
		Number of Students	Total Costs	Number of Students	Total Costs	
Written and Skills Test	\$101	28	\$2,828	17	\$1,717	(\$1,100)
Skills Test Only	\$77	662	\$50,974	395	\$30,415	(\$20,600)
<b>Total</b>	-----	<b>690</b>	<b>53,802</b>	<b>412</b>	<b>32,132</b>	<b>(\$21,700)</b>

Based on the above discussion, we believe the total impact to the private citizen would be a saving estimated at about \$127,300.

### Summary

The additional costs identified for the Health Care Personnel Education and Credentialing section at DHSR in adopting this rule would be in a minimal increase in staff workload at an annual cost of \$8,200 (with 75% covered with federal funds). Based on this additional workload, it has been determined that no additional staff would be needed and that the cost of this action to the Department could easily be absorbed within the existing budget, thus having no fiscal impact. An additional impact would be on two of the primary educators of nurse aides. With an estimated increase in the number of additional Nurse Aide I training students who would seek enrollment at a NC Community College System being 880, the estimated net fiscal impact is \$146,200. Licensed Proprietary Schools would also see an increase of an estimated 590 students, however the net impact is difficult to estimate. These extra 1,470 students (private citizens) would realize a savings of \$127,300 as a result of this rule since more students would pass Nurse Aide I Competency exam the first time, eliminating the need to pay for additional testing, and some students would see tuition fee savings from enrolling in community college programs. Unlicensed, unapproved schools teaching students who wish to work as a Nurse Aide I will incur an estimated loss of approximately \$197,000 in the first year and \$184,000 in subsequent years. Therefore, the net impact from the proposed rule (based on quantifiable impacts) would be close to \$224,000 in the first year and close to \$203,000 in the following years (see the table below).

**Table 6. Summary of Estimated Impact**

Area of Fiscal Impact	Estimated Costs (Savings)
(State) DHSR/HCPEC State	\$2,000 (non-recurring)
(State) NC Community College System State	\$146,200
(State) Office of Proprietary Schools	unquantified
<b>Federal</b>	\$6,200 (non-recurring)
(Private Small Business) Various Licensed Proprietary Schools	\$0
(Private Small Business) Various Unlicensed, Unapproved Schools	\$196,600 (\$183,700 recurring)
(Private) Students/Citizens	(\$127,300)
<b>Net Impact</b>	<b>\$223,700 (\$202,600 recurring)</b>

## APPENDIX 1: Proposed Rule Text

10A NCAC 130 .0301 is proposed for adoption as follows:

### SECTION .0300 - NURSE AIDE I REGISTRY

#### 10A NCAC 130 .0301 NURSE AIDE I TRAINING AND COMPETENCY EVALUATION

- (a) To be eligible to be listed on the NC Nurse Aide I Registry a person shall pass a Nurse Aide I training program approved by the Department and the State of North Carolina's Nurse Aide I competency exam.
- (b) This Rule incorporates 42 CFR Part 483 by reference, including all subsequent amendments and editions. Copies of the Code of Federal Regulations may be accessed electronically free of charge from [www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR](http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR).
- (c) The State of North Carolina's Nurse Aide I competency exam shall include each course requirement specified in the Department-approved training program as provided for in 42 CFR Part 483.152.
- (d) The State of North Carolina's Nurse Aide I competency examination shall be administered and evaluated only by the Department or its agent as provided for in 42 CFR Part 483.154.
- (e) A record of completion of the State of North Carolina's Nurse Aide I competency exam shall be included in the NC Nurse Aide I Registry within 30 business days of passing both the written or oral examination and the skills demonstration as provided for in 42 CFR Part 483.154.
- (f) If the State of North Carolina's Nurse Aide I competency exam candidate does not pass both the written or oral examination and the skills demonstration as provided for in 42 CFR Part 483.154, the candidate shall be advised by the Department of the areas which the individual did not pass.
- (g) Every competency exam candidate shall have, as provided for in 42 CFR Part 483.154, the opportunity to take the exam three times before being required to retake and pass a Nurse Aide I training program which is approved by the Department according to 42 CFR Part 483.151 through Part 483.152.
- (h) A person who is currently listed on any state's Nurse Aide I Registry shall not be required to take the Department approved Nurse Aide I training program to be listed or relisted on the NC Nurse Aide I Registry unless the person fails to pass the State of North Carolina's Nurse Aide I competency exam after three attempts.
- (i) U.S. military personnel who have completed medical corpsman training and retired or non-practicing nurses shall not be required to take the Department-approved Nurse Aide I training program to be listed or relisted on the Nurse Aide I Registry unless the person fails to pass the State of North Carolina's Nurse Aide I competency exam after three attempts.

*History Note: Authority G.S. 131E-255; 42 CFR Part 483;  
Eff. January 1, 2016.*

## APPENDIX 2: Certification of Federal Requirement



### North Carolina Department of Health and Human Services Division of Health Service Regulation Office of the Director

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

Drexdal Pratt  
Division Director

#### MEMORANDUM

**TO:** Office of State Budget & Management

**FROM:** Nadine Pfeiffer, DHSR Rule-making Coordinator

**DATE:** June 10, 2015

**RE:** Federal Certification for N.C. Department of Health and Human Services/Secretary and N.C. Medical Care Commission Rule Adoption

#### Rule-making Coordinator's Certificate

As Required by GS 150B-19.1(g)  
For Proposed Permanent and Temporary Rules Adopted to  
Implement a Federal Law or which upon Receipt of Federal Funds is Conditioned

Rule 10A NCAC 130 .0301 is proposed for adoption to be compatible with federal regulations for training and competency testing for Nurse Aide I listing on the N.C. Nurse Aide I Registry. These rules apply to individuals who wish to be listed on the Nurse Aide I Registry.

Regulation by the State of North Carolina for Nurse Aide I Registry listing is subject to the provisions of 42 U.S.C. §1395i-3(e), 42 U.S.C. §1396r(e), and 42 CFR Part 483.75, 483.150-483.152, 483.154, 483.156 and 483.160. The adoption of the above-named rule is necessary to comply with the federal regulations to ensure the provision of safe care and consistent training for all Nurse Aide I's listed in the N.C. Nurse Aide I Registry.



<http://www.ncdhhs.gov/dhsr/>

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